



# OPEN COMMUNITIES ALLIANCE

Testimony of Bassam Gergi  
before the Housing Committee  
March 1st, 2016

## Testimony in support of SB 155, An Act Concerning the Allocation of Low Income Housing Tax Credits

Distinguished Members of the Housing Committee:

Thank you for the opportunity to speak today. My name is Bassam Gergi. I am a second-year student at Yale Law School, and I am testifying on behalf of Open Communities Alliance.<sup>1</sup> OCA is a civil rights organization dedicated to creating access to opportunity for everyone in Connecticut. OCA places a particular focus on ensuring that our state's housing policy reverses rather than perpetuates our history of housing segregation.

At the outset, I would like to register OCA's full and unequivocal support for Raised Bill 155.

The bill helps to bring urgently needed geographic balance to the distribution of Low Income Housing Tax Credits in Connecticut.<sup>2</sup> It also ensures that Connecticut is in compliance with the federal and state civil rights mandates to affirmatively further fair housing.

James Baldwin—one of the great bards of the Civil Rights Movement—once wrote that if we truly seek to make America the land where every man is free, we must be willing to face up to reality.<sup>3</sup>

*Reality.* Reality can be a hard thing to face. Frequently, and sometimes inadvertently, we take refuge in comforting delusions, we allow ourselves to be lulled into complacency by fatuous illusions.

However, as Baldwin knew too well, we will not make progress toward becoming a freer and more equal society until we cease fleeing from reality and begin to see things as they are. For we cannot fix what we will not face.

And what we struggle to face here in Connecticut is that more than fifty years after the height of the Civil Rights Movement the yawning gap between what Connecticut *promises* to her families striving to rise out of poverty and what she *actually delivers* is still stark, shamefully stark.

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<sup>1</sup> Written as part of the Legislative Advocacy Clinic at Yale Law School's Jerome N. Frank Legal Services Organization. Supervised by J.L. Pottenger, Jr., Nathan Baker Clinical Professor of Law, Shelley Geballe, Clinical Lecturer, and Alex Knopp, Clinical Visiting Lecturer.

<sup>2</sup> As will be explained further, this balance will provide low-income Connecticut families greater access to affordable housing in high opportunity areas of the state. This, in turn, will result in better overall life chances for these Connecticut families and their children.

<sup>3</sup> James Baldwin, *The Fire Next Time*, (Vintage Books: 1992).



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Only those among us who reside in an illusion could have been shocked last month by the Brookings Institution study that identified many of Connecticut's cities as having among the highest inequality gaps in America.<sup>4</sup>

In fact, the evidence has suggested for quite some time now that the residential segregation of families by income is rising more rapidly in Connecticut than other states. For instance, a 2011 study detailed that in the New Haven area the proportion of families living in either "poor" or "affluent" (rather than middle-income) neighborhoods rose from 6.4 percent in 1970 to 30.5 percent in 2007—one of the most rapid increases in income segregation in the nation.<sup>5</sup>

It does not have to be this way.

While the historical causes of Connecticut's segregated housing patterns are numerous, there are state-administered programs that exacerbate the effects of past practices.<sup>6</sup> One such program is the Low Income Housing Tax Credit (LIHTC).<sup>7</sup>

The LIHTC program supports the construction and rehabilitation of rental housing developments that include units affordable to low-income individuals and families. In Connecticut, the LIHTC program has helped build or preserve over 23,000 units since 1987.<sup>8</sup>

This development of affordable housing is laudable—especially in Connecticut's costly housing market, which only grows more prohibitive each year. Nevertheless, the sad reality is that the Connecticut Housing Finance Authority's (CHFA) pattern for distributing LIHTC credits has harmed the life chances of many of our children and reinforced segregation in violation of civil rights law.

At present, the Qualified Allocation Plan (QAP) formula that CHFA uses to distribute the LIHTC credits has resulted in the vast majority of LIHTC units—88%, in fact—being placed outside of higher opportunity areas, as defined by the Department of Housing.<sup>9</sup>

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<sup>4</sup> Alan Berube and Natalie Holmes, City and Metropolitan Inequality on the Rise, Brookings Institute, (January 14, 2016), *available at* <http://brookings.edu/research/papers/2016/01/14-income-inequality-cities-update-berube-holmes>.

<sup>5</sup> Sean Rirdon and Kendra Bischoff, Growth in the Residential Segregation of Families by Income, 1970-2009, US2010 Project, (November 2011).

<sup>6</sup> Connecticut Fair Housing Center, A Guide to Zoning for Fair and Open Communities, (June 2013).

<sup>7</sup> While it is a program of the federal Department of Treasury, it is administered in Connecticut by the Connecticut Housing Finance Authority (CHFA).

<sup>8</sup> Adam Gordon, Tax Credits Can and Should Build Both Homes and Opportunity, Furman Center Dream Revisited Slow Debate, (June 2015), *available at* <http://furmancenter.org/research/iri/essay/tax-credits-can-and-should-build-both-homes-and-opportunity>.

<sup>9</sup> Open Communities Alliance, Fact Sheet: LIHTC Developments in Connecticut, *available at* [http://ctoca.org/policy\\_priorities](http://ctoca.org/policy_priorities).



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Instead, by concentrating the housing for low-income residents into under-resourced pockets of Connecticut, CHFA isolates the residents from the opportunities critical to economic success, cutting them off from the good schools and well-paying jobs that would allow for social mobility. Consequently, patterns of residential segregation produced by intentionally discriminatory policies endure, and are reinforced with state support, to this day.

Since the QAP is determined at the state level, though, CHFA has considerable power to change how the program is administered. Yet for over a decade, despite the calls of housing advocates, CHFA has stubbornly refused to allocate LIHTC credits in a more geographically balanced way.

We need CHFA and the state to face up to their moral and legal responsibilities. To continue to refuse to do so is not only detrimental to the life chances of many of Connecticut's children, but it also violates state and federal civil rights law, most prominently Title VIII of the Fair Housing Act.<sup>10</sup>

As such, Raised Bill 155 would reform Connecticut's QAP in order to bring the state into legal compliance and to ensure that every child in Connecticut has equal access to the opportunities critical to leading a full and free life.

Toward this end, the bill proposes an *Opportunity Leveraging Approach* that prioritizes (1) higher opportunity developments that create greater housing choice and (2) developments in lower opportunity neighborhoods that would contribute to neighborhood revitalization or provide other benefits.

- At least 60% of LIHTC credits would be prioritized for non-age-restricted developments in higher opportunity areas.
- 15% of credits would be able to be used at the discretion of the CHFA.
- At least 25% of LIHTCs would be prioritized for catalytic projects in areas of “moderate” and “lower opportunity.”
- If an otherwise qualifying higher opportunity development is not prepared to move forward due to zoning issues and a CGS Sec. 8-30g appeal is pending, the development will receive priority consideration for credits when the case is resolved.
- If an insufficient number of applications obtaining threshold points for either priority area is

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<sup>10</sup> The Fair Housing Act was passed in the wake of the assassination of Dr. Martin Luther King, Jr., in 1968, and it requires that federally funded housing programs be administered in a way to “affirmatively further” fair housing, to promote “truly integrated and balanced living patterns,” and to “remove the walls of discrimination.” Moreover, the Supreme Court reaffirmed this past summer the “Fair Housing Act's continuing role in moving the Nation toward a more integrated society.” Then, the following month, the Department of Housing released new rules to help states and localities take stronger action to meet their affirmative fair housing duty. *See* 42 USC § 3608(e); CGS § 8-37ee.; Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc. 135 S. Ct. 2507 (2015), at 2526; U.S. Department of Housing and Urban Development. Affirmatively Furthering Fair Housing Rule Guidebook, (2015), available at <https://hudexchange.info/resources/documents/AFFH-Rule-Guidebook.pdf>.



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submitted, the remaining credits would become available largely without regard to opportunity area location.

The *Opportunity Leveraging Approach* would also lead to tremendous benefits for children from low-income backgrounds who are able to move at a young age<sup>11</sup>, including:

- Decreased chances of asthma, obesity, and neurodevelopmental disorders.
- Reduced likelihood of placement in special education, repeating a grade, dropping out, or suspension or expulsion.
- Improved educational performance and higher likelihood of attending college.
- Substantially higher incomes as adults, an average annual income of 31 percent higher.
- Less likely to be single parents.
- Reduction in the intergenerational persistence of poverty and large positive returns for taxpayers.

In sum, SB 155 would help counteract the perpetuation of segregation currently written into the LIHTC program, and it would help protect Connecticut against the civil rights litigation that it is vulnerable to at present—a win-win!

However, as we know too well, the state has often been slow to act in the past. Yet for the sake of the children growing up on the downside of advantage, and for the sake of her own self-interest, Connecticut must be careful not to take refuge in any delusion—she must either face up to reality on her own or risk being compelled to do so by the force of law.

We recommend that Connecticut act now to reform its LIHTC program.

The Connecticut General Assembly should enact Raised Bill 155.

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<sup>11</sup> Raj Chetty, Nathaniel Hendren, and Lawrence F. Katz, The Effects of Exposure to Better Neighborhoods on Children: New Evidence from the Moving to Opportunity Experiment, NBER Working Paper No. 21156, (May 2015), at 40.